

APPEAL NO. 031717
FILED AUGUST 18, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 3, 2003. The appellant (claimant) appeals the hearing officer's determinations with regard to (Docket No. 1) (injury 1) that the claimant did not sustain a compensable occupational disease injury on (date of injury No. 1), and that respondent 1 (carrier 1) is relieved of liability because of the claimant's failure to give timely notice to the employer. With regard to (Docket No. 2) (injury 2), the claimant appeals the hearing officer's determinations that she did not sustain a compensable injury in the form of an occupational disease on (date of injury No. 2); that respondent 2 (carrier 2) did not waive the right to contest compensability of the alleged injury by not timely contesting the injury; that carrier 2 is relieved of liability because of the claimant's failure to timely notify her employer of her alleged injury; and that because the claimant had no compensable injury the claimant had no disability. Carriers 1 and 2 respond to the appeal, urging affirmance.

The hearing officer's determinations in regard to injury 1, that carrier 1 is relieved of liability because the claimant's failure to timely notify her employer and that carrier 1 specifically contested compensability on the issue of timely reporting; and with regard to injury 2, that the date of the alleged injury is (date of injury No. 2), and that carrier 2 is not relieved of liability because the claimant filed her claim for compensation with the Texas Worker's Compensation Commission (Commission) within one year, have not been appealed and has become final. Section 410.169.

DECISION

Affirmed.

CARRIER WAIVER

The claimant contends that the carrier waived the right to contest the alleged injury of (date of injury No. 2), because the carrier did not dispute the claim within 7 days. It is undisputed that the carrier disputed the alleged injury on October 7, 2002. There was conflicting evidence as to whether the carrier had written notice on September 27, 2002, as alleged by the claimant or on September 30, 2002, as argued by the carrier.

There was conflicting evidence and the hearing officer determined that the carrier timely disputed the claim because it had received the first written notice on September 30, 2002. We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are not so against the great weight and preponderance of the evidence

as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

OCCUPATIONAL DISEASE AND DISABILITY

The claimant testified that she had allergic reactions to “Orris Root,” a compound present in some perfumes that some people wore at the workplace. She also testified that she was allergic to other items she was exposed to in the workplace. There was no evidence showing that she was exposed to any agents to a greater degree at her place of work than when she went out in public. The hearing officer concluded that the claimant was suffering from an ordinary disease of life and that there was insufficient evidence that her work-related activities were a cause of her complained-of conditions. Without a compensable injury, the claimant cannot, by definition in Section 401.011(16), have disability.

Because we affirm the hearing officer’s determination that carrier 1 and carrier 2 did not waive the right to dispute the claimed injuries, and that there were no injuries, those issues are determinative of the other issues appealed.

We have reviewed the complained-of determinations and conclude that the hearing officer’s determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

We affirm the hearing officer's decision and order.

The true corporate name of insurance carrier 1 is **ASSOCIATION CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

The true corporate name of insurance carrier 2 is **AMERICAN MOTORISTS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge